

Internal Revenue Service
Director, Exempt Organizations
Rulings and Agreements

Department of the Treasury
P.O. Box 2508
TX/GE:EO DQA room 7008
Cincinnati, OH 45201

Date: MAY 22 2003

Employer Identification Number:
[REDACTED]

Person to Contact - I.D. Number:
[REDACTED]

Contact Telephone Numbers:
[REDACTED]

Phone

FAX

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure I.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code. However, we have concluded that you do not qualify under another subsection.

If your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1041 if you are a Trust, or Form 1120 if you are a corporation or an unincorporated association. Contributions to you are not deductible under section 170 of the Code.

You agreed to this action by signing Form 6018 dated December 20, 2002; however, you may reconsider your position during a 30-day period starting on the date of this letter.

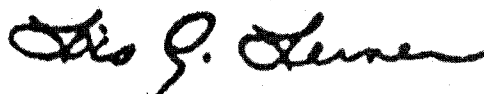
You have the right to protest this proposed determination if you believe it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues." The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides, in part, that:

A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within the time specified, this will become our final determination. In that event, appropriate State officials will be notified of this action in accordance with the provisions of section 6104(c) of the Code.

Sincerely,



Director, Exempt Organizations
Rulings and Agreements

Enclosures:

Enclosure I
Publication 892

ENCLOSURE I

ISSUE:

Does the applicant qualify for tax exemption under section 501(c)(3) of the Internal Revenue Code?

FACTS:

The information submitted disclosed that you were formed under the Nonprofit Public Corporation Law of [REDACTED]. The purpose of your organization is the collection of funds to pay the legal fees and costs of [REDACTED].

Your activities, as stated in Form 1023, include the following:

- (1) To sponsor advertisements and media events in order to promote the purpose of the organization.
- (2) To solicit volunteers for its fundraising activities which will be done by targeted mailings, telephone calls, and advertisements.
- (3) To collect funds for [REDACTED] who is currently imprisoned and facing appeal.

The budgets submitted with your application indicate that, after payment of a small amount of fund-raising costs and administrative expenses, all of the monies you receive would be used to pay costs of [REDACTED] legal appeal, including attorney fees, filing fees, and travel expenses.

LAW:

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal Income Tax organization organized and operated for charitable, religious or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(a)-1(c) of the Income Tax Regulations that the words "private shareholder or individual" mean an individual having a personal and private interest in the activities of the organization.

1.501(c)(3)-1(b) of the Regulations states that an organization must satisfy an organizational test in order to be recognized as exempt under Code section 501(c)(3). This test is satisfied by having necessary provisions in its articles of organization that limit its purposes and powers to those described in this Code section and ensure that assets are permanently dedicated to exempt purposes.

ENCLOSURE I

Section 1.501(c)(3)-1(d)(1)(i) of the Regulations state that an organization is not operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator of his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interest.

In Pettet Business Bureau of Washington D.C. v. United States, 326 U.S. 279(1945), it was held that a single nonexempt purpose, if substantial, would preclude tax exemption under 501(c)(3) of the Code.

In American Campaign Academy V. Commissioner, 92 T.C. 1053(1989), the Tax Court was called to decide whether benefits to third parties, who were not members of the petitioner, would prevent the petitioner from being recognized as an exempt organization within the meaning of section 501(c)(3) of the Code. As its primary activity, the Academy operated a school to train individuals for careers as political campaign professionals. The Tax Court found that the Academy conducted its educational activities within the partisan objectives of benefiting Republican candidates and entities. The Tax Court concluded that the Academy operated to confer a substantial private benefit on Republican entities and candidates. The Court states that the requirements that the petitioner not be operated for the benefit of private interests is applicable notwithstanding the service's concession that no portion of the petitioner's net earnings inured to the benefit of private shareholders or individuals. Also important to the rulings was that prohibited private interest includes those of unrelated third parties. The court held that the petitioner's activities benefited private interests more than incidentally and that its substantial nonexempt purpose was ground for revocation of the Academy's exemption.

APPLICATION OF LAW:

Section 501(c)(3) of the Code sets forth two main tests for qualification for exempt status. An organization must be both organized and operated exclusively for purposes described in section 501(c)(3). You have not satisfied either test.

You do not meet the organizational test under section 501(c)(3) of the Code because your Articles of Incorporation do not contain the types of provisions described in section 1.501(c)(3)-1(b) of the Regulations.

You do not satisfy the operational test, because your only activity is to collect funds for the legal fees and costs of a specifically designated individual. . Your organization's activities are thus conducted in furtherance of private interests.

Your organization is using the assets of the organization to further the private interest of a designated individual. This constitutes a substantial nonexempt purpose that, in accordance with the courts' rulings in the aforementioned cases, will preclude tax exemption under 501(c)(3) of the Code. As noted in the American Campaign Academy decision, the fact that the person